



ENVIRONMENTAL ASSESSMENT DECISION NOTICE
for the
Fleecer WMA Grazing Lease Renewal

Montana Fish, Wildlife & Parks
Region 3, Bozeman
February 2019

Preface

The enclosed Decision Notice has been prepared to maintain a coordinated grazing program on Fleecer Wildlife Management Area (WMA) near Divide, MT, for a 4-year term to extend May 2019 through October 2022. The program, which began in 1982 and has been modified over the years to better suit habitat objectives, would consist of a spring grazing exchange agreement (up to 500 Animal Unit Months [AUMs]) with Fleecer Cattle Company (formerly Smith 6 Bar S Livestock) and a separate fall fee-grazing agreement (94 AUMs) with Fleecer Cattle Company and Russel Dupuis. Spring grazing would occur every other year as intensive grazing in a pasture dominated by smooth brome. Fall grazing would occur in a rest-rotation fashion on the remaining three pastures of Fleecer WMA. Fleecer Cattle Company would rest one pasture annually in exchange for spring grazing on the WMA.

This grazing program would involve 3,700 acres of FWP land, 875 acres of Montana Department of Natural Resources and Conservation (DNRC) land leased by FWP, 1,920 acres of Fleecer Cattle Company land, and 640 acres of DNRC land leased by Fleecer Cattle Company. In addition, it would dovetail with the adjacent Forest Service grazing system of 6,080 acres. Total acreage involved would be 13,215 acres.

The Fleecer WMA Coordinated Grazing System would provide landscape-level management of elk winter range across ownerships and demonstrates the compatibility of livestock production and wildlife/recreation-based values.

Public Process and Comments

FWP is required by the Montana Environmental Policy Act (MEPA) to assess potential impacts of a proposed action to the human and physical environment. In compliance with MEPA, an Environmental Assessment (EA) was completed for the proposed project by FWP and released for public comment on December 28, 2018.

The following three alternatives were considered in this Environmental Assessment:

Alternative A: Renewal of both the spring and fall grazing leases on Fleecer WMA.

Alternative B: Renewal of only the spring or only the fall grazing lease on Fleecer WMA.

Alternative C: Elimination of livestock grazing on the Fleecer WMA.

Public comments were taken for 30 days (through January 28, 2019). The public was informed of this EA via the following:

- Two public notices in each of these papers: *Butte Montana Standard*, *Anaconda Leader*, and *Dillon Tribune*
- One statewide press release
- Public notice on the Fish, Wildlife & Parks web page: <http://fwp.mt.gov>

- Copies of the EA were distributed to neighboring landowners, local sportsmen's clubs, county commissioners, and other interested parties to ensure their knowledge of the proposed project.

Four parties submitted comments during the 30-day comment period ending at 5:00 p.m. on January 28, 2019. Of the respondents, one represented him/herself while the others represented the Anaconda Sportsmen's Club, the Beaverhead-Deerlodge National Forest and Moulton Bellingham, PC on behalf of Fleecer Cattle Company.

FWP thanks all parties that took the time to provide comments to the Fleecer WMA Grazing Lease Renewal proposal.

Of the four respondents, one party did not state support for any of the alternatives considered in this environmental analysis but did state general opposition to public land grazing. One party did not state support for a specific alternative but implied support for an FWP grazing program on the Fleecer WMA. The other two parties stated support for Alternative A and provided several comments to qualify their support. All comments and FWP's response are included here.

- One respondent stated that, "All grazing allotments should be retired. We must protect streams and habitat. Grazing is a fire hazard as it encourages cheat grass. There is nothing good about tax payers subsidizing grazing. End these allotments."

FWP Response: The proposed cooperative grazing system on Fleecer WMA and adjacent private and public land has been designed to utilize livestock to improve vegetative conditions across the landscape for wintering elk and other wildlife that use the area throughout the year. Grazing is timed to enhance vegetative conditions rather than negatively impact them. Cheat grass is found on the WMA, but mainly in areas that have been heavily treated with herbicide for noxious weeds. General fund tax dollars do not fund any part of this grazing program. The lessees pay 50% of the annual NASS rate and are responsible for fence maintenance in the pasture scheduled for use for the fall grazing portion of this grazing program. The payment for the spring grazing on the WMA is to rest from livestock grazing one pasture annually on the Fleecer Cattle Company ranchlands.

- One respondent stated, "We would like to definitely lend our support to (FWP's) efforts regarding overall management of the Fleecer Mountain WMA. We think that maintaining goals of good or excellent vegetative conditions on the WMA must be maintained. Wildlife habitat, especially elk habitat must be first and foremost on the WMA, but it certainly does not eliminate other multiple uses such as livestock grazing, if done properly."

FWP's response: FWP agrees that wildlife and their habitat is the foremost priority of the Fleecer WMA and that other uses can be allowed as long as they are compatible with this. The grazing system that has been in place on Fleecer WMA since 1986 was designed to benefit wildlife, particularly elk, by using livestock grazing as a management tool on the WMA. Through the cooperative grazing program between private and public land (both Forest Service and FWP), wildlife benefits by having winter range managed across the landscape, regardless of ownership, thus increasing the amount of available quality habitat beyond that which only the WMA provides.

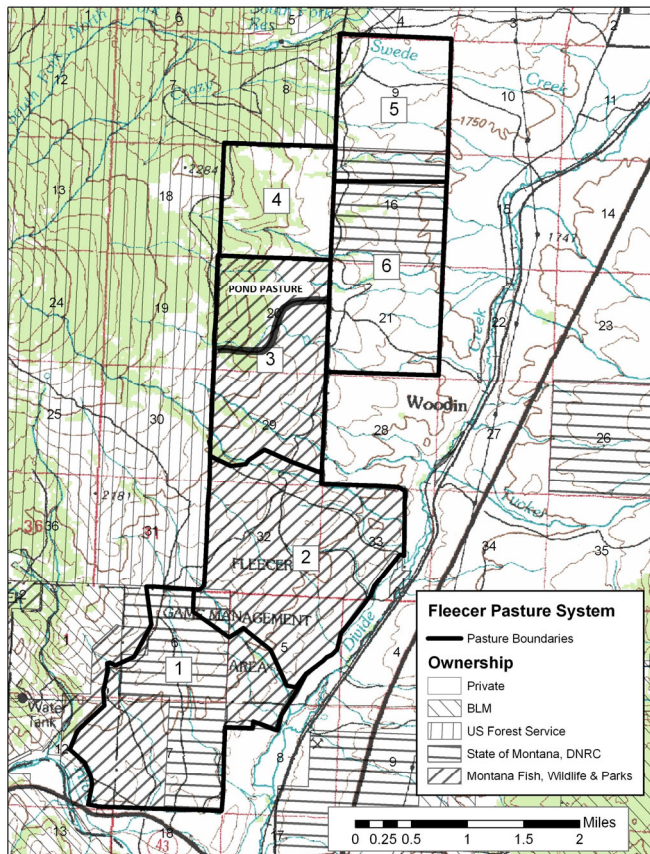
This party also provided some specific comments that they recommended be addressed in the final EA. They are:

- Provide information on AUM's and carrying capacity for both livestock and wildlife for the Fleecer WMA. What percentage of this carrying capacity is reserved for wildlife? Provide a map of the pastures along with a description of the grazing program to better illustrate the intended rotation and pasture use.

FWP Response: As stated in the EA, the spring grazing exchange agreement would allow up to 500 Animal Unit Months (AUMs) of livestock grazing every other year and the fall fee-grazing agreement would allow up to 94

AUMs annually. Spring grazing would be managed as intensive grazing in the Pond Pasture of the WMA where historic hay fields dominated by smooth brome occur (see Figure 1). Fall grazing would occur in a rest-rotation fashion on Pastures 1-3 of Fleece WMA where one pasture would be grazed Oct 1-15 annually while the other two pastures are rested. Each pasture would be grazed once every 3 years for that 15-day period. Fleece Cattle Co. pastures 4-6 would continue to be managed for annual vegetation rest on a rotational basis in exchange for spring grazing on the WMA.

Figure 1: Map of FWP and private pastures in the Fleece Coordinated Grazing Program.



Because wildlife distribution occurs on a landscape that includes agriculture, resource extraction, recreation, development, and transportation across both public and private land, FWP considers social and biological aspects of carrying capacity. For the Fleece winter range (all ownerships combined), the “management” carrying capacity is 600-800 elk. When elk numbers dropped below this range, concerns from hunters led to more restrictive hunting seasons and when numbers went above this range, concern from neighboring ranches led to more liberal seasons. The upper limit of the management carrying capacity was codified in FWP’s Elk Management Plan (FWP 2005) which states as a subobjective for the Fleece Elk Management Unit that no more than 800 elk will winter on Fleece winter range.

Several indicators suggest that livestock and elk grazing at the level that has occurred on the WMA since the mid 1980’s has not exceeded the vegetative capacity of the WMA portion of the winter range and in fact has improved conditions. Results from long-term vegetation monitoring on the WMA show increasing trends in soil stability and presence of bunch grasses and a decreasing trend in bare ground and vegetation that results from disturbance (e.g. rabbitbrush). Soil condition assessments conducted by Natural Resource and Conservation Services indicate that plant species expected to be present based on the soil type and condition are present.

- What are the cumulative effects of this grazing plan on the larger landscape, i.e. to include Forest Service and Fleecer Cattle Co lands?

FWP Response: FWP does not have jurisdiction over vegetation monitoring of these properties. However, qualitative assessments based on site visits and evidence provided by the distribution of wintering elk and other wildlife throughout the year suggest that habitat quality across the Fleecer range, regardless of ownership, is adequate or better to meet the needs of wintering big game as well as nesting and brood-rearing needs of several species of birds, antelope and other wildlife.

- One respondent stated support for the Proposed Action – Alternative A and proposed “revisions to the parameters of the lease agreement to address changes to Fleecer Cattle Company’s ranching operation and continued issues with significant number of elk remaining on Fleecer Cattle Company private lands for significant periods of time.”

This party provided specific points to be considered, as follows:

- “The purpose of the Fleecer WMA Coordinated Grazing System historically has been and currently is to meet the need for quality winter range for elk in the Fleecer area and to minimize adverse impacts to adjacent private property. Elk continue to enjoy high quality winter range on the Fleecer Cattle Company private property, however, the impacts of elk on Fleecer Cattle Company private property continue to outweigh the benefits of the grazing lease to Fleecer Cattle Company”

FWP Response: FWP recognizes the impacts that landowners often sustain when land is owned in elk wintering areas. It is for this reason that FWP worked cooperatively with the Smith family and the Forest Service 30+ years ago to develop a grazing program with the joint goals of improving range conditions for wintering elk while simultaneously increasing cattle grazing potential to maintain a viable family ranch operation. FWP recognizes that this grazing exchange with Fleecer Cattle Company is not meant to completely alleviate elk use on private lands but as stated above, “to minimize adverse impacts to adjacent private property”. FWP negotiated the terms of this proposed lease renewal in good faith with Fleecer Cattle Company so that both parties were comfortable with the terms. Either party could terminate this lease, or abstain from renewal, for any reason and at any time.

- “Although FWP owns thousands of acres bordering Fleecer Cattle Company, and recently has acquired more, elk seem to prefer to winter on Fleecer Cattle Company lands. These private lands are lower in elevation than most of the acreage owned by FWP and have been managed with Best Management Practices, making this private range resource the most desirable and beneficial for wildlife use. While new habitat is available, elk habits do not appear to be changing.

“Fleecer Cattle Company continues to experience 800+ elk on its private property throughout the winter and early spring months. Elk use every acre of Fleecer cattle Company’s 4,800+ acres, NOT just the three pastures and 1,920 deeded acres and 640 State lease acres described in the Draft EA. The benefit the State derives from Fleecer Cattle company’s private property ownership in the area and adjacent to the Fleecer WMA is understated in the Draft EA.

FWP Response: Data from 50 years of FWP surveys do not support the respondent’s belief that “elk seem to prefer to winter on Fleecer Cattle Company lands” or that the range provided by Fleecer Cattle Company lands are the “most desirable and beneficial for wildlife use”. Aerial surveys show elk utilizing the entire Fleecer winter range at one time or another. Elk distribution appears to be less about land ownership than it is about topography, wind swept hills, accessible vegetation and thermal cover given the weather conditions at the time of the survey. Aerial surveys provide a range-wide perspective, especially of those draws and tucked-in areas that may be difficult to view from the ground. While FWP recognizes Fleecer Cattle Company as being excellent stewards across all their

land, we also acknowledge that conditions across FWP and Forest Service lands on the Fleecer range are comparable in stewardship since all three parties are collectively operating under the Fleecer Coordinated Grazing System and with much of the same herd of cattle. FWP agrees that elk use increases on lower elevations during the spring months when vegetation begins to green up.

In addition to low elevation pasture on Fleecer Cattle Company, the WMA also contains low elevation pasture and elk have been observed using that on a regular basis. In 2017 FWP purchased a 200-acre parcel adjacent to Fleecer WMA. This low-elevation parcel contains approximately 80 acres of hay fields which are being managed through a separate grazing lease to make the forage more attractive to winter and spring use by elk. FWP has been actively working to meet the subobjective for HD 319 to limit the number of elk wintering on Fleecer range below 800. Since 2015 regulations have allowed antlerless elk harvest during the 6-week archery season, on 250-400 B licenses, and to youth and hunters with a permit to hunt from vehicle. During this same time the number of elk wintering on the entire Fleecer range has been 829-888. FWP is committed to taking management action to reduce the number of elk wintering on Fleecer range.

- “Regarding the goal ‘to use coordinated resource management across ownerships to alleviate conflict between wildlife and agricultural land use,’ the Draft EA, Section 7 – Need for Proposed action, lists six historical objectives. Fleecer Cattle Company believes that three objectives require significant further consideration and improvement: 3) ‘minimize impact of winter and spring use by elk on private land by providing adequate habitat on public lands,’ 5) ‘increase cattle grazing potential,’ and 6) ‘maintain optimum level of livestock production on [Fleecer Cattle Company] lands.’ Fleecer Cattle Company notes that objective 5) ‘increase cattle grazing potential’ is omitted from the objectives for the proposed action under this Draft EA, and requests that it be included again in the Final EA.

FWP Response: FWP agrees, as evidenced by the continuation of Historical Objectives 3 and 6 in the Proposed Action (highlighted below) and also by the recent purchase of additional land that is being managed through a separate grazing agreement to provide quality habitat for elk and other wildlife. The omission of Historical Objective 5 from the Proposed Action was an oversight on the preparer’s part. This stands as record that it is included in Objectives for the Proposed Action in the Final EA.

It should be noted that Historical Objective 2 was purposefully omitted as an objective for the Proposed Action. FWP feels the elk population potential for the Fleecer winter range, i.e. management carrying capacity, has been realized over the years since these original objectives have been laid out. Now the task is to continue to work cooperatively across ownerships to provide high-quality habitat for wintering elk and other wildlife (Proposed Action Objective 2).

Historical Objectives:

1. *Manage the entire elk winter range in the Fleecer area as one unit, regardless of ownership.*
2. *Increase elk populations to potential on public land ownerships.*
3. *Minimize impact of winter and spring use by elk on private land by providing adequate habitat on public lands.*
4. *Maintain soils, vegetation, and riparian zones in good or better condition on public and private lands.*
5. *Increase cattle grazing potential.*
6. *Maintain optimum level of livestock production on Smith 6 Bar S Livestock lands.*

Proposed Action Objectives:

1. *Continue to manage the entire elk winter range in the Fleecer area as one unit, regardless of ownership;*
2. *Continue to provide high-quality vegetation for wintering elk and other wildlife through planned rest from grazing across multiple ownerships;*
3. *Continue to maintain or improve soils, vegetation, and riparian zones through systematic grazing on the WMA;*

4. *Continue to minimize impacts of winter and spring use by elk on private land by providing quality habitat on public lands;*
 5. *Continue to maintain optimum level of livestock production on Fleecer Cattle Company lands by minimizing elk depredation through a systematic grazing on the WMA.*
- “The Proposed Action does not account for fewer needed AUMs by Fleecer Cattle Company and the wisdom of grazing the Pond brome grass pasture more frequently. This ground needs to be grazed frequently due to the nature of the brome grass species as an introduced, non-native, and high production species. With Fleecer Cattle Company’s fewer cattle numbers, this Pond Pasture could be and should be grazed yearly, or 3 out of the 4 years of lease. It is important to note that Fleecer cattle are uniquely able to efficiently convert this brome grass at the optimal time for the WMA because of Fleecer’s atypical fall calving schedule.”

FWP Response: The proposed action was designed with input from Fleecer Cattle Company and the terms were mutually agreed upon. The allotted spring use (up to 500 AUMs every other year) allows for the reduced number of Fleecer Cattle Company (compared to when it was 6 Bar S Livestock) to spend more time on the WMA that spring. The Pond Pasture is not entirely smooth brome and other introduced grasses; approximately 40% of it is native vegetation which can be impacted if utilized every spring.

- Because Fleecer Cattle Company is exchanging grazing for rest rotation of its private pastures, the grazing allowance should not alleviate FWP of its obligation to mitigate the continuing and worsening issues of elk overrunning Fleecer Cattle Company private lands. The Final EA should address the elk numbers that will be expected to be allowed to winter on Fleecer Cattle Company lands. The Final EA should address allowed actions such as hazing or herding of elk off of Fleecer Cattle Company lands and the implementation of damage hunts.

FWP response: The proposed action is a significant effort on FWP’s behalf to mitigate game damage on Fleecer Cattle Company land. Through an exchange of use agreement, Fleecer Cattle Company is allowed to graze on the WMA rather than graze their own pastures comprising elk winter range. If there were no elk game damage concerns, the only reason FWP would pursue this proposal would be to add additional grazing rest to Fleecer Cattle Company livestock rotation to improve the ecological integrity of native plant communities and to provide consistent cover and forage on important winter habitats beyond the boundary of Fleecer WMA. Being a lessee on a WMA does not preclude that party from receiving game damage assistance when warranted. All game damage situations are handled on a case-by-case basis. Actions taken are consistent with Montana law, FWP policy, and are mutually agreed upon by FWP and the landowner. Specific actions are outside the scope of this EA.

- “As stated in the Draft EA, the grazing plan alone, especially when already traded for through the rest and rotation of privately-owned pastures, is not enough to alleviate issues that Fleecer Cattle Company continues to experience. Under the proposed plan, and the new ranching operation at Fleecer, only half as many cattle will graze the limited time period under the Draft EA. Yet, no change will be made to the elk numbers and damage that Fleecer Cattle Company is expected to withstand.”

FWP response: As stated above, the proposed action was designed with input from Fleecer Cattle Company and the terms were mutually agreed upon. FWP has worked with Fleecer Cattle Company (formerly 6 Bar S Livestock) to provide game damage assistance on numerous occasions when both parties felt it was warranted. Currently there is an elk game damage hunt in progress on the property and several antlerless elk have been harvested. In addition, FWP, through season regulations, is actively working to reduce the number of elk that winter on Fleecer range.

- “Fleecer Cattle Company intends to continue to work with FWP, however, Fleecer will not continue to accept the lopsided exchange represented in this Draft EA indefinitely. Other options are available to Fleecer Cattle Company to preserve its interest that may be contrary to FWP goals for elk management.”

FWP response: FWP recognizes Fleecer Cattle Company (formerly 6 Bar S Livestock) as a partner in range management for the past 30+ years and hopes that this working relationship continues into the future. However, FWP recognizes land use needs may change in time and respects the rights of the landowner to do what is in their best interest.

- “The Final EA should allow flexibility for Fleecer Cattle Company and FWP to explore new ideas to figure out how to change behavior patterns of wintering elk so they do not spend so much time on Fleecer Cattle Company’s private property. The lease agreement between FWP and Fleecer Cattle Company should include a contingency plan to allow more grazing by Fleecer on the WMA to account for particularly bad winters when elk spend more time on the lower elevations of the Fleecer Cattle Company’s private lands. Damage hunts and hazing or herding opportunities to move elk from private lands must be part of this plan.”

FWP response: This EA is meant to address a proposed grazing program. While elk behavior and game damage are factors in the overall management of the WMA, they are beyond the scope of this EA. As it has done in the past with 6 Bar S Livestock, FWP will continue to consider contingency actions as needed and on a case-by-case basis.

- One respondent stated “As stated in the EA total removal of all grazing on the Fleecer WMA (Alternative C) will likely result in a need to adjust the grazing management on the Fleecer Grazing allotment on the National Forest System (NFS) administered lands. We cannot say what that adjustment would look like at this time, however, it may result in the long-term loss in available forage for wintering elk. It is unclear what the long-term implication to those NFS lands would be if Alternative B were selected, but it could result in some loss of available elk forage. We agree with FWP that Alternative A would be the best option for the long-term management of the resources across the larger landscape in the Fleecer area.”

This respondent provided additional comments:

- Consider utilizing the Pond Pasture on an annual basis. “I believe this would provide for additional grazing opportunities to improve the forage availability and for wintering elk while we (USFS) work on improving the ecological conditions in the USFS Antelope and Exclosure pastures by reducing the impacts from Spotted Knapweed.... Providing some managed grazing opportunities annually may be the best way to use the smooth brome within the Pond Pasture to continue to provide quality forage for wintering elk annually and long-term.”

“Based upon field observations on the USFS, Fleecer Grazing allotment it appears that the coordinated grazing system has been largely successful in helping to maintain the ecological stability of the larger landscape. We look forward to continuing our cooperative partnership with MTFWP and the USFS in managing the grazing use on the Fleecer WMA and USFS Fleecer Grazing allotment.

FWP response: As stated above, the Pond Pasture contains approximately 40% native grasses and forbs that could be negatively impacted if grazed every spring. Since this is a short-term lease (4 years, FWP will explore options with the FS and Fleecer Cattle Company to continue to manage the range for optimal conditions across all ownerships.

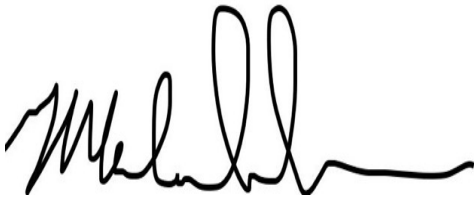
Final Environmental Assessment

Slight modifications to the Draft Environmental Assessment have been made as noted in the FWP response to comments above. The Draft Environmental Assessment, together with this Decision Notice, will serve as the final document for this proposal.

Decision

Based on the Environmental Assessment and public comment, it is my decision to approve the implementation of Alternative A for renewal of both the spring and fall grazing leases on Fleecer WMA.

I find there to be no significant impacts on the human and physical environments associated with this project. Therefore, I conclude that the Environmental Assessment is the appropriate level of analysis, and that an Environmental Impact Statement is not required.



Mark Deleray
Region 3 Supervisor
Montana Fish, Wildlife & Parks

2/13/2019

Date